

MICHIGAN BUSINESS TAX ACT (EXCERPT)
Act 36 of 2007

208.1203 Modified gross receipts tax; levy; imposition; "modified gross receipts tax base" explained; deduction; remittance; residential rental units; definitions.

Sec. 203. (1) Except as otherwise provided in this act, there is levied and imposed a modified gross receipts tax on every taxpayer with nexus as determined under section 200. The modified gross receipts tax is imposed on the modified gross receipts tax base, after allocation or apportionment to this state at a rate of 0.80%.

(2) The tax levied and imposed under this section is upon the privilege of doing business and not upon income or property.

(3) The modified gross receipts tax base means a taxpayer's gross receipts subject to the adjustment in subsection (6), if applicable, less purchases from other firms before apportionment under this act. The modified gross receipts of a unitary business group is the sum of modified gross receipts of each person, other than a foreign operating entity or a person subject to the tax imposed under chapter 2A or 2B, included in the unitary business group less any modified gross receipts arising from transactions between persons included in the unitary business group.

(4) For the 2008 tax year, deduct 65% of any remaining business loss carryforward calculated under section 23b(h) of former 1975 PA 228 that was actually incurred in the 2006 or 2007 tax year to the extent not deducted in tax years beginning before January 1, 2008. A deduction under this subsection shall not include any business loss carryforward that was incurred before January 1, 2006. If the taxpayer is a unitary business group, the business loss carryforward under this subsection may only be deducted against the modified gross receipts tax base of that person included in the unitary business group calculated as if the person was not included in the unitary business group.

(5) Nothing in this act shall prohibit a taxpayer who qualifies for the credit under section 445 or a taxpayer who is a dealer of new or used personal watercraft from collecting the tax imposed under this section in addition to the sales price. The amount remitted to the department for the tax under this section shall not be less than the stated and collected amount.

(6) Subject to the limitations provided in this subsection, for a person that is a qualified affordable housing project, deduct an amount equal to that person's total gross receipts attributable to residential rental units in this state owned by the qualified affordable housing project multiplied by a fraction, the numerator of which is the number of rent restricted units in this state owned by the qualified affordable housing project and the denominator of which is the number of all rental units in this state owned by the qualified affordable housing project. The amount of the deduction calculated under this subsection shall be reduced by the amount of limited dividends or other distributions made to the partners, members, or shareholders of the qualified affordable housing project. Gross receipts attributable to residential rental units do not include amounts received by the management, construction, or development company for completion and operation of the project and those rental units.

(7) If a qualified affordable housing project no longer meets the requirements of subsection (8)(b) or fails to operate those residential rental units as rent restricted units in accordance with the operation agreement and the requirements of subsection (8)(c), the qualified affordable housing project is entitled to the deduction under subsection (6) as long as the qualified affordable housing project continues to offer some of the residential rental units purchased as rent restricted units in accordance with the operation agreement.

(8) For purposes of subsections (6) and (7) and this subsection:

(a) "Limited dividend housing association" means a limited dividend housing association, corporation, or cooperative organized and qualified pursuant to chapter 7 of the state housing development authority act of 1966, 1966 PA 346, MCL 125.1491 to 125.1496.

(b) "Qualified affordable housing project" means a person that is organized, qualified, and operated as a limited dividend housing association that has a limitation on the amount of dividends or other distributions that may be distributed to its owners in any given year and has received funding, subsidies, grants, operating support, or construction or permanent funding through 1 or more of the following sources and programs:

(i) Mortgage or other financing provided by the Michigan state housing development authority created in section 21 of the state housing development authority act of 1966, 1966 PA 346, MCL 125.1421, the United States department of housing and urban development, the United States department of agriculture for rural housing service, the Michigan interfaith housing trust fund, Michigan housing and community development fund, federal home loan bank, housing commission loan, community development financial institution, or mortgage or other funding or guaranteed by Fannie, Ginnie, federal housing association, United States department of agriculture, or federal home loan mortgage corporation.

- (ii) A tax-exempt bond issued by a nonprofit organization, local governmental unit, or other authority.
 - (iii) A payment in lieu of tax agreement or other tax abatement.
 - (iv) Funding from the state or a local governmental unit through a HOME investments partnership program authorized under 42 USC 12741 to 12756.
 - (v) A grant or other funding from a federal home loan bank's affordable housing program.
 - (vi) Financing or funding under the new markets tax credit program under section 45D of the internal revenue code.
 - (vii) Financed in whole or in part under the United States department of housing and urban development's hope VI program as authorized by section 803 of the national affordable housing act, 42 USC 8012.
 - (viii) Financed in whole or in part under the United States department of housing and urban development's section 202 program authorized by section 202 of the national housing act, 12 USC 1701q.
 - (ix) Financing or funding under the low-income housing tax credit program under section 42 of the internal revenue code.
 - (x) Financing or other subsidies from any new programs similar to any of the above.
- (c) "Rent restricted unit" means any residential rental unit's rental income is restricted in accordance with section 42(g)(1) of the internal revenue code as if it was a qualified low-income housing project, or receives rental assistance in the form of HUD section 8 subsidies or HUD housing assistance program subsidies, or rental assistance from the United States department of agriculture rural housing programs, from any of the other programs described under subdivision (b).

History: 2007, Act 36, Eff. Jan. 1, 2008;—Am. 2008, Act 168, Imd. Eff. June 30, 2008.

Compiler's note: Enacting section 1 of Act 36 of 2007 provides:

"Enacting section 1. This act takes effect January 1, 2008 and applies to all business activity occurring after December 31, 2007."

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